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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,900	01/11/2002	Sung Ho Byun	1274-079F(056103-5084)	7220

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EXAMINER

LEE, DIANE I

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 01/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/043,900	BYUN ET AL.	
	Examiner	Art Unit	
	D. I. Lee	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11/07/03.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) 30-51 is/are withdrawn from consideration.
- 5) ☒ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-9,11-16 and 22-29 is/are rejected.
- 7) ☒ Claim(s) 3,4,10 and 17-21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

1. Receipt is acknowledged of the applicant's Response to Restriction/Election requirement filed 07 November 2003, which applicants provisionally elect to prosecute Group I: figs. 1-4, 15-17, which drawn to a scanner structure having a housing that includes scanning platform having a specific formation, a protective sheath protecting the scanner housing, and a movable bracket adjustably mountable to the housing without electrical mechanism. Furthermore, applicants assert that claims 1-51 (i.e., all pending claims) are readable on the elected species. However, the Examiner disagrees with the applicant's submitted claims of the elected species. Group I being figs. 1-4, 15-17, which drawn a scanner structure having a housing that includes scanning platform having a specific formation, a protective sheath protecting the scanner housing, and a movable bracket adjustably mountable to the housing without electrical mechanism; and Group II being figs. 5-14 and 22-31, which drawn to a laser scanner comprising a housing containing electrical mechanism having specific optical components, such a laser beam mechanism, a specific structure of laser beam sweeping mechanism mounted therein, a stationary array, a light collection elements and subsystem, a light receiver, a processor, control mechanism, and etc. Upon careful consideration of the applicant's election, the Examiner made a determination that claims 1-29 are readable on the elected species, i.e., group I. Thereby, claims 30-51 are withdrawn from the consideration.

2. Acknowledgment is made that this application is a continuation-in-part of application Serial No. 09/897,175 filed 7/02/2001, now abandoned; which is a continuation of application Serial No. 09/626,841 filed 7/27/2000, which issued as U.S. Pat. No. 6,299,067; which is a continuation of application Serial No. 09/444,587 filed 11/22/1999, which issued as U.S. Pat. No. 6,182,898; which is a continuation of application Serial No. 09/204,176 filed 12/03/1998, which issued as U.S. Pat. No. 6,283,375; which is a continuation-in-part of application Serial No. 08/645,335 filed 05/13/1996, which issued as U.S. Pat. No. 5,942,743; which is a continuation-in-part of application Serial No. 08/615,054 filed 3/12/1996, which

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issued as U.S. Pat. No. 6,286,760; which is a continuation-in-part of application Serial No. 08/573,949 filed 12/18/1995, now abandoned; which is a continuation-in-part of application Serial No. 08/292,237 filed 08/17/1994, which issued as U.S. Pat. 5,808,285; which is a continuation-in-part of application Serial No. 08/365,193 filed 12/28/1994, which issued as U.S. Pat. No. 5,557,093; which is a continuation-in-part of application Serial No. 08/293,493 filed 8/19/1994, which issued as U.S. Pat. No. 5,525,789; which is a continuation-in-part of application Serial No. 08/561,469 filed 11/17/1995, now abandoned; which is a continuation-in-part of application Serial No. 08/278,109 filed 11/24/1993, which issued as U.S. Pat. No. 5,484,992; which is a continuation-in-part of application Serial No. 08/489,305 filed 6/9/1995, now abandoned; which is a continuation-in-part of application Serial No. 08/476,069 filed 06/17/1995, which issued as U.S. Pat. No. 5,591,953; which is a continuation-in-part of application Serial No. 08/584,135 filed 1/11/1996, which issued as U.S. Pat. No. 5,616,908.

3. Upon review of the parent applications, the examiner has determined that the currently claimed invention has not been "wholly" disclosed until the current application. Specifically *the scanner structure having a housing that includes scanning platform having a specific formation, a protective sheath protecting the scanner housing, and a movable bracket adjustably mountable to the housing without electrical mechanism* is not found in the parent application. Therefore, the effective filing date for the currently claimed invention is 11 January 2002.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. **Claims 2, 8, 11-13, 16-18, and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

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Re claims 2, 8, 11-12, 16-18, and 20: The use of an alternate language such as “and” and “or” are not clear to the Examiner. The limitation must be clear as to which one of the limitation being claimed. For example, in claim 2, lines 1-2 read “rubber and/or flexible plastic” renders the claim vague and indefinite. The use of an alternate language such as “and” and “or” are not clear to the Examiner. The limitation must be clear as to which one of the limitation being claimed. For examining purpose, the Examiner treated the “and/or” as --or-- in the claims.

Re Claim 13, line 2: The addition of the word “type” to an otherwise definite expression (e.g., acrylic) extends the scope of the expression so as to render it indefinite. Appropriate clarification and correction is required to alleviate the indefiniteness of the language “acrylic-type”. See M.P.E.P. § 2173.05(b). For examining purpose, the Examiner interpreted the “transparent acrylic-type plastic” as --transparent plastic--.

Therefore, claims 2, 8, 11-13, 16-18, 20, and the claims, which depend therefrom (i.e., claims 3, 5-11, 21) are vague and indefinite.

### *Claim Objections*

6. Claim 22 is objected to because of the following informalities:

(a) Re claim 22, line 1: delete extra “.” After “25.”

Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. **Claims 1-2, 5-7, 9, 11-16, and 22-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plesko in view of Swartz et al. [US 4,387,297].**

**Re claims 1, 5, 14, 27, and 29:** Plesko teaches a bar code scanner, comprising:

a housing including an omni-directional laser-scanning platform mounted therein (see figure 1);

a window (not specifically pointed out, however, the opening of the scanner that allows the beam to exit the housing and admit the reflected light into the scanning house, see figure 1) for admitting laser energy into the housing and for allowing laser energy to pass out of the housing; and

a movable bracket (a microphone style stand 351 having a flat bottom configured for placement directly on a surface and a clamp 353) adjustably mounted to the housing of the scanner and detachable from the housing, such that, if the movable bracket is mounted to a fixed surface, the movable bracket remains fixed, but permits adjustment of housing via a flexible goose neck 352 to any of a plurality of positions relative to the fixed surface and wherein the adjustment mechanism provides any rotational adjustment of the housing (see figure 13).

Plesko does not disclose a shock-absorbing mechanism that is permanent part of the housing.

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Swartz teaches a laser scanning having a housing including an omni-directional laser scanning platform and other optical components are mounted on the platform 30, 40 (see col. 7, lines 28+ and figure 1);

a window 62 for admitting laser energy into the housing and for allowing laser energy to pass out of the housing (an outlet port 62, which allows the beam to exits the housing and admits the reflected light into the scanning house, see figure 1); and a shock-absorbing mechanism in the form of a protective sheath (i.e., two bumpers 36, 38 mounted between the housing and the support platform, each bumpers 36, 38 are mounted around the platform) that functions to protect against damage if the bar code scanner is dropped and/or subjected to mechanical shock (each bumpers 36, 38 that mounted around the platform absorbs the most common shock such as dropping, see col. 7, lines 66+; col. 12, lines 53; col. 13, lines 6+).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the shock-absorbing mechanism that absorbs the most common shock in the scanner of Plesko in order to withstand common physical abuse of the scanner, such as being unintentionally pushed off a table onto the floor.

**Re claim 2:** the protective sheath is fabricated of rubber (see col. 7, lines 66+).

**Re claims 6-7 and 11-13:** Although Plesko as modified by Swartz teaches the housing having a predetermined volume with an outer surfaces, and Swartz teaches the window is generally square and/or rectangular in configuration and mounted in an aperture of the housing and is seated in or held by one or more projections formed in the housing 20 (see figures 1-3) and the light beam passes through the laser beam-transmissive exit window 62 and pass through an optical filter 92, which obviously teaches that the window is transparent acrylic-type plastic; Plesko as modified by Swartz does not teach the claimed structure of the housing.

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However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the structure of the housing to other formation, since applicant has not disclosed that claimed structure solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with other formation. Accordingly, it would have been an obvious expedient.

**Re claim 9:** Plesko does not teach that the housing is molded of hard plastic.

Swartz teaches that the housing is made of a synthetic plastic material.

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to provide the plastic material for the housing in order to provide a lightweight housing for the scanning device.

**Re claims 15-16:** Plesko teaches that the position adjustment mechanism is provided with a clamp 353 in the form of an annular flange having an interior surface with an inner diameter that proximate the housing and an outer diameter and further provided a mating structure for the housing and the flexible goose neck 352 of the stand 351 (see figure 13).

**Re claims 22-23, 25-26, and 28:** the scanning device of Plesko provides a hand-held position (handheld by a user), freestanding position (housing having a flat bottom configured for placement directly on a counter or terminal 374 surface), and a fixed mounted position (see figures 10a, 13-14).

**Re claim 24:** the scanning platform includes an object detection circuit 1, 2, 3 (see figure 1).

10. **Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Plesko as modified by Swartz as applied to claim 1 above, and further in view of Knowles [US 4,575,625].** The teachings of Plesko as modified by Swartz have been discussed above.

Plesko as modified by Swartz fails to teach the LED power and/or LED “good bar code read” indicators.



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Knowles teaches the scanner having the LED power and/or LED "good bar code read" indicators mounted on the housing (see col. 8, lines 18+ and col. 9, lines 40+ and figure 2).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the power and good reading indicators in the scanning device of Plesko as modified by Swartz in order to provide power and reading status of the scanning device to the user. Therefore, the operator of the scanning device is well informed about the operating status the scanning device.

### *Allowable Subject Matter*

11. Claims 4 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. Claims 3, 10, 17-18, and 20-21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

13. The following is a statement of reasons for the indication of allowable subject matter: The best prior art of the record, Plesko and Swartz, alone or in combination, fails to teach or fairly suggest the specifics of the protective sheath, which is in form of a removable and reinstallable encasement relative to the housing and an opening that substantially coincides with the window; the housing formed in two half-section with tongue-and groove edges to provide an interlocking fit; the specific structure of the movable bracket, which having a plurality of rounded teeth that engages corresponding rounded grooves of the housing and two or more of mounting holes for mounting to a surface, as set forth in the claims.

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*Conclusion*

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

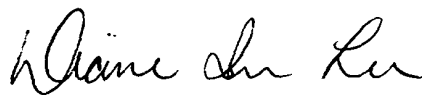
Grodevant [US 5,237,161], Bridgelall et al. [US 5,504,316], Bridgelall et al. [US 5,478,997], McMillan [US 4,766,297] and Wyatt et al. [US 5,691,528] discloses a handheld and a fixed mount omnidirectional scanning device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. I. Lee whose telephone number is 703-306-3427. The examiner can normally be reached on Monday through Thursday from 5:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 703-305-3503. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

**Note:** After January 15, 2004, the examiner can be reached on 571-272-2399 and the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398.

  
D. I. Lee  
Primary Examiner  
Art Unit 2876

D. L.